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E.O. 12958: N/A

TAGS: [PTER](#) [PREL](#) [IZ](#) [YM](#) [COUNTER TERRORISM](#)

SUBJECT: YEMEN TO TRY TERRORISTS/COLE BOMBING SUSPECTS

1. (U) Summary: On 11 April 2004, The Ambassador met with ROYG Attorney General (AttGen) Dr. Abdullah Al-Ulfi to discuss progress on turning over terrorist cases for prosecution, formally request rendition of Cole Bombing suspects Al-Badawi and Al-Quso, and to request/offer USG participation in any upcoming trials. The AttGen told the Ambassador that 15 individuals involved in 5 cases (2000 Cole bombing, 2002 Qadisiya attack, 2002 Hunt Oil Company helicopter attack, 2003 plot to assassinate the Ambassador, 2002 M/V Limburg bombing) were to be prosecuted in the near term by the ROYG Prosecutor General. The meeting concluded with a discussion of access to the prosecution team and their evidence against the accused, and an offer of assistance/sharing of evidence gathered by U.S. investigatory bodies. Also present were ROYG Justice Ministry Chief of Staff Ahmad Al-Jundubi, LEGATT, FPD and Embassy Counterterrorism Coordinator. End summary.

RENDITION OF BADAWI AND QUSO

2. (U) The Ambassador formally presented the USG's request for rendition of U.S.S. Cole bombing suspects Jamal Muhammad Ahmad Ali Al-Badawi and Fahd Muhammad Ahmad al-Quso. As these two men have been specifically charged with acts of terrorism against American targets, the USG has interest to see them tried in the United States. Failing rendition, the Ambassador requested a swift trial in the Yemeni courts system for the same crimes.

3. (U) The AttGen told the Ambassador that rendition remained a constitutional issue, but that all requests would be taken under advisement. The AttGen requested that such a request be followed-up in a diplomatic note and routed through the MFA. (note: the Embassy is doing so. End note.)

TRANSFER OF CASES

4. (U) The AttGen informed the Ambassador that his office had formed a special team on 8 April to receive the transfer of files on 15 individuals currently incarcerated in Political Security Organization (PSO) jails for charges of terrorism. The prisoners were to remain in PSO custody throughout the trial period. Transfer of all files was expected to be completed on/about 15 April. This team would then review the files in preparation for transfer to individual prosecutors. These prosecutors would then supervise the cases through the investigation (which began on 10 April) and trial phases. Modeled on the French system, two different judges would preside over pre-trial/investigation period and the actual trial itself. Venue for trial was not yet decided but was expected to be either the criminal court or the court of appeals, both secure locations. When pressed for a notional timeline for onset/completion of the trials, the AttGen demurred but said that 6-8 weeks was possible. He made clear to the Ambassador that the trials would be swift and just. The AttGen recommended USG hire a Yemeni lawyer to assist US team.

5. (U) The 5 cases are: the attack on the U.S.S. Cole of October 12, 2000; the plot against American interests which culminated in the explosion in the Al-Qadisiyya district of Sana'a on August 9, 2002; the plot to assassinate the Ambassador circa Fall/Winter 2002; the rocket attack on the Hunt Oil Company helicopter of November 3, 2002; the bombing of the M/V Limburg October 6, 2002. (note: The Embassy requested the identities of the 15 charged with these crimes in a diplomatic note sent on 13 April, 2004. End note.)

USG PARTICIPATION IN THE TRIALS

16. (U) Speaking generally, the AttGen told the Ambassador that the ROYG Justice Ministry was open to any requests made by the Embassy regarding access during the trials and would do its best to include American representatives. This participation would be based in two capacities: access as representation of the victims and access as assistance to the prosecution. Of the former, appropriate and named representatives for the victims would be allowed participation via the prosecutor to bring questions against the accused, present and view existing evidence, and would have a role in sentencing. The AttGen noted that these privileges were standard in the Yemeni court system and did not constitute an exceptional request. Concerning assistance to the prosecution, the LEGATT suggested that the Embassy would present one team of experts from the FBI and Department of Justice that would interact and liaise with the prosecution team, share evidence and provide forensic assistance as required. NCIS would also be represented on the team for all trials of Cole suspects.

17. (U) Action requested: USG should constitute ASAP a team to represent USG and victims' interests in all phases of the judicial investigation, trial and sentencing. The official U.S. representation should have a written mandate from or on behalf of the victims to document that role. Official USG representation should be assigned for the duration of the process -- one team from beginning to end. Embassy will designate LEGATT and NCIS representatives as its representatives. DOJ/FBI should also prepare for sharing with Yemeni prosecutors appropriate evidence or documents to strengthen prosecution in cases where we have such materials.
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